

**Notice of Allowability**

Application No.

10/751,351

Examiner

Ali Abdelwahed

Applicant(s)

HORNSBY ET AL.

Art Unit

3722

**— The MAILING DATE of this communication appears on the cover sheet with the correspondence address—**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment & Terminal Disclaimer.
2. ☒ The allowed claim(s) is/are 1-6 and 8-17.
3. ☒ The drawings filed on 05 January 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Sean D. Solberg on October 22, 2004.

The application has been amended as follows:

Claim 1, line 12, after "...receiver..." insert --; and the animal portion further comprising a tongue operably coupled to the motor, the tongue comprising a plurality of elongated members connected as a lattice that extends and retracts--.

Cancel claim 7.

Claim 8, line 1, delete "7" and insert -1--.

Claim 15, line 9, after "...the magnetic portion is..." insert -moveable within the outer shell and is--.

### ***Allowable Subject Matter***

Claims 1-6 and 8-17 are allowed.

The following is an examiner's statement of reasons for allowance: The specific limitations of "...a tongue operably coupled to the motor, the tongue comprising a plurality of elongated members connected as a lattice that extends and retracts...the magnetic portion is moveable within the outer shell and is configured to be capable of moving the magnetic object while the magnetic object remains in contact with the outer shell..." are not anticipated or made obvious over the prior art of record in the examiner's opinion. For example, U.S. Patent No. 4,708,685 to Udagawa teaches the claimed invention, however, fails to teach the magnetic portion being moveable within the outer shell and is configured to be capable of moving the magnetic object while the magnetic object remains in contact with the outer shell. U.S. Patent No. 6,017,262 to Starnes teaches a tongue snatching creeper toy, however, fails to teach the tongue operably coupled to a motor and comprising a plurality of elongated members connected as a lattice.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (703) 305-3311. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (703) 308-2159.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

AA

10/25/2004

  
A. L. WELLINGTON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700